

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 677 - SB 1310

March 1, 2022

SUMMARY OF BILL AS AMENDED (013781): Requires a clear, readily accessible, and convenient process for patients and prescribing practitioners to request a step therapy exception if coverage of a prescription drug for the treatment of any medical condition is restricted for use by an insurer, health plan, or utilization review organization through the use of a step therapy protocol.

Requires an insurer, health plan, or utilization review organization to grant a step therapy exception within 72-hours of receipt or within 24-hours of receipt in an emergency medical condition, if certain criteria are met.

The proposed legislation takes effect January 1, 2023 and applies to agreements for health insurance or health plans entered into, issued, delivered, amended, or renewed on or after that date.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures - \$109,100/FY22-23
\$218,200/FY23-24 and Subsequent Years

Increase Federal Expenditures - \$7,500/FY22-23
\$15,000/FY23-24 and Subsequent Years

Increase Local Expenditures – Exceeds \$18,200/FY22-23*
Exceeds \$36,400/FY23-24 and Subsequent Years*

Assumptions for the bill as amended:

- Step therapy is the process of trying less expensive medications before stepping up to drugs that cost more.
- The proposed legislation requires health insurers, health plans, or utilization review organizations to base step therapy protocols on appropriate clinical practice guidelines or published peer reviewed data developed by independent experts with knowledge of the condition or conditions under consideration instead of cost.
- It defines “medically necessary” as healthcare services and supplies that, under the applicable standard of care, are appropriate to improve or preserve health, life, or bodily function; to slow the deterioration of health, life or bodily function; or for the early

screening, prevention, evaluation, diagnosis, or treatment of a disease, condition, illness, or injury.

- The proposed legislation does not apply to the TennCare program or any of its successors, the CoverKids Act of 2006, or the Access Tennessee Act of 2006.
- Based on information previously provided by the Division of Benefits Administration's medical carrier and PBM, it is estimated there will be an increase in state expenditures of \$153,155 for the State Plan, and \$65,036 for the Local Education Plan in FY23-24 and subsequent years. Due to the January 1, 2023 effective date, the increase in state expenditures is estimated to be \$76,578 ($\$153,155 \times 50.0\%$) in FY22-23 for the State Plan and \$32,518 ($\$65,036 \times 50.0\%$) in FY22-23 for the Local Education Plan.
- Some state plan member's insurance premiums are funded through federal dollars. The increase in federal expenditures in FY23-24 and subsequent years is estimated to be \$15,018. Due to the January 1, 2023 effective date, the increase in federal expenditures is estimated to be \$7,509 ($\$15,018 \times 50.0\%$) in FY22-23.
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be \$36,384 in FY23-24 and subsequent years. Due to the January 1, 2023 effective date, the increase in local expenditures is estimated to be \$18,192 ($\$36,384 \times 50.0\%$) in FY22-23.
- The impact on local governments that do not opt into the Local Government Plan is unknown; therefore, the total increase in local expenditures is estimated to exceed \$36,384 in FY23-24 and subsequent years and exceed \$18,192 in FY22-23.
- The Department of Commerce and Insurance can promulgate rules utilizing existing resources; therefore, any fiscal impact is estimated to be not significant.
- The total increase in state expenditures in FY22-23 is estimated to be \$109,096 ($\$76,578 + \$32,518$).
- The total increase in federal expenditures in FY22-23 is estimated to be \$7,509.
- The total increase in local expenditures in FY22-23 is estimated to exceed \$18,192.
- The total increase in state expenditures in FY23-24 and subsequent years is estimated to be \$218,191 ($\$153,155 + \$65,036$).
- The total increase in federal expenditures in FY23-24 and subsequent years is estimated to be \$15,018.
- The total increase in local expenditures in FY23-24 and subsequent years is estimated to exceed \$36,384.

IMPACT TO COMMERCE OF BILL AS AMENDED:

Increase Business Revenue – Exceeds \$134,800/FY22-23

Exceeds \$269,600/FY23-24 and Subsequent Years

Increase Business Expenditures – Less than \$134,800/FY22-23

Less than \$269,600/FY23-24 and Subsequent Years

Assumptions for the bill as amended:

- Healthcare providers will experience an increase in business revenue for providing services.
- The increase in business revenue is estimated to exceed \$134,797 (\$109,096 + \$7,509 + \$18,192) in FY22-23 and exceed \$269,593 (\$218,191 + \$15,018 + \$36,384) in FY23-24 and subsequent years.
- For companies to retain solvency, any increased expenditures will be less than the amount of increased revenues collected. Therefore, the increase in business expenditures is estimated to be less than \$134,797 in FY22-23 and less than \$259,593 in FY23-24 and subsequent years.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/klc